



U.S. Department of Justice

Environment and Natural Resources Division

90-11-2-1357

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January 27, 2009

CONFIDENTIAL SETTLEMENT COMMUNICATION SUBJECT TO FRE 408

Edward Kenney
Sidley Austin Brown & Wood
Bank One Plaza
10 South Dearborn Street
Chicago, IL 60603

Re: Westbank Asbestos Site

Dear Ed:

I am writing in partial response to your letter of November 25, 2008, in which you submitted a counter-proposal to the Government's settlement offer.^{1/} In your letter you identified "critical elements" of a settlement, in addition to the payment amount, that require further discussion and resolution. Initially, I want you to know that the Government appreciates the positive movement JM has shown in its most recent proposal. The Government is considering your offer and the issues you have raised concerning payment amount, scope of release and payment structure. I suspect we will need to schedule a call in about a week so that you can clarify for the Government your position with respect to the scope of release. In the meantime, I am enclosing information that I believe will meet JM's information requirements with respect to documentation of the costs and work performed that would be resolved through this settlement. Specifically, with this letter I am enclosing (a) two (2) CDs that contain detailed cost reports and supporting documentation (redacted for confidential business information and privacy act information) that evidence the costs incurred in connection with the Site, and (b) one CD that contains a map of the Westbank Asbestos Removal Project in PDF format that identifies the streets/blocks and properties that were included in the removal (identified as removal area). This information provides ample support in the settlement context for the claim we seek to resolve.

Additionally, as the Tolling Agreement will expire on February 10, 2009, I suggest that

^{1/}This letter does not constitute an Initial Notification under the terms of the Global Settlement Order entered in *Manville Corp. v. United States*, No. 91 Civ. 6683 (RWS) (S.D.N.Y. October 28, 1994).

we extend the tolling agreement for another 4 month period to enable us to bring this matter to a mutually favorable conclusion. Please do not hesitate to call if you wish to discuss the enclosed materials or the tolling agreement further.

Sincerely,

/s/ Kenneth G. Long
Kenneth G. Long
Senior Attorney
Environmental Enforcement Section

Enclosures /3 CDs

cc: James Costello, USEPA